

Message Text

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ACTION EB-08

INFO OCT-01 ISO-00 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 FRB-03 H-01 INR-10 INT-05 L-03 LAB-04
NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15 STR-07
ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01 DOE-15
AF-10 ARA-10 EA-10 EUR-12 NEA-10 /153 W
-----121794 051209Z /10

P 051145Z APR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 7985
INFO AMEMBASSY PARIS
AMEMBASSY TOKYO

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USOECD

PASS TREASURY

E.O. 11652: N/A
TAGS: ETRD, GATT, JA
SUBJECT: ANTIDUMPING -- LIQUIDATION OF DUTIES ON
JAPANESE COLOR TELEVISION RECEIVERS

REF: TOKYO 5629

1. NEAR END OF GATT ANTIDUMPING COMMITTEE MEETING APRIL 4
JAPANESE DELEGATE (TERADA) READ PAPER CHALLENGING AS
INCONSISTENT WITH SEVERAL PROVISIONS OF ANTIDUMPING CODE
RECENT U.S. ACTION TO LIQUIDATE ANTIDUMPING DUTIES ON
ENTRIES OF JAPANESE COLOR TELEVISION SETS. AS SPECIFIC
CASES, PARTICULARLY OUTSIDE STEEL SECTOR, WERE NOT
BEING CONSIDERED AT THIS SPECIAL MEETING OF COMMITTEE,
U.S. DELEGATION OBJECTED TO INCLUSION OF THIS ITEM AND
NOTED IT WAS UNPREPARED TO DISCUSS DETAILS. U.S. REPRESENTATIVE
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SENTATIVE (TREASURY DAS EHRENHAFT) IN BRIEF REMARKS
POINTED OUT THAT:

-- LIQUIDATION DELAY IN THIS CASE - OR OTHERS -
WAS NOT POLICY OF U.S. TREASURY. DELAY OCCURRED HERE
IN PART BECAUSE OF DIFFICULTIES IN USING COMPLEX JAPANESE
DATA TO IDENTIFY THE MOST COMPARABLE TV'S FOR ESTABLISHING

FOREIGN MARKET VALUES, SINCE APPARENTLY MISLEADING COMPARISONS WERE FURNISHED;

-- U.S. HAS MET ITS FULL OBLIGATIONS TO JAPANESE EXPORTERS UNDER BOTH U.S. LAW AND THE CODE. IMPORTERS HAVE RECOURSE TO BOTH ADMINISTRATIVE REVIEW AND FULL JUDICIAL REVIEW, IF THEY WANT TO CHALLENGE REASURY DECISION.

-- THE PENDENCY OF CASE DID NOT SEEM TO DETER CONTINUED SALE OF BILLIONS OF DOLLARS OF JAPANESE TELEVISIONS WHICH U.S. INDUSTRY CLAIMED CAUSED GREAT INJURY.

THE JAPANESE DID NOT COMMENT ON U.S. REPLY, BUT NOTED THAT THE ISSUE COULD BE DISCUSSED FURTHER BILATERALLY AND, IF NECESSARY, AT NEXT REGULAR COMMITTEE MEETING.

2. FOLLOWING IS TEXT OF JAPANESE PAPER. BEGIN TEXT:

1. I WOULD LIKE TO DRAW THE ATTENTION OF THE ANTI-DUMPING COMMITTEE TO THE PROBLEM INVOLVED IN THE U.S. LIQUIDATION WITH REGARD TO ANTI-DUMPING DUTIES ON T.V. RECEIVERS IMPORTED FROM JAPAN. LET ME, FIRST OF ALL, OUTLINE THE FACTS BRIEFLY. IN MARCH 1971, THE U.S. MADE A DETERMINATION TO IMPOSE ANTI-DUMPING DUTIES ON VARIOUS TYPES OF T.V. RECEIVERS IMPORTED FROM JAPAN. HOWEVER, THE U.S. KEPT SUS-

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PENDING LIQUIDATION FOR THE IMPOSITION OF ANTI-DUMPING DUTIES FOR A VERY LONG PERIOD FROM JANUARY 1972 UNTIL QUITE RECENTLY.

IN MID-MARCH 1978, THE U.S. NOTIFIED JAPAN OF ITS INTENTION OF LIQUIDATION AND AT THE END OF MARCH 1978 IT CONDUCTED LIQUIDATION WITH REGARD TO THOSE T.V. RECEIVERS IMPORTED FOR THE PERIOD OF TWO YEARS FROM JANUARY 1972 TO DECEMBER 1973 AND IMPOSED ANTI-DUMPING DUTIES WITH A GRACE PERIOD UNTIL THE END OF JUNE 1978.

2. I WOULD STRESS THAT NO LIQUIDATION WAS MADE FOR AS LONG A PERIOD AS 6 YEARS AFTER THE FINAL DETERMINATION OF IMPOSITION OF ANTI-DUMPING DUTIES. THROUGHOUT THIS LONG PERIOD, THE JAPANESE IMPORTERS INVOLVED WERE OBLIGED TO BE IN SO UNCERTAIN A POSITION AS TO MAKE IT DIFFICULT FOR THEM TO PURSUE THEIR MARKETING ACTIVITIES IN THE U.S. WITHOUT ANY INFORMATION ON THE AMOUNT OF DUTIES TO BE IMPOSED WHICH AFFECTS THEIR PROFITABILITY ACCRUING FROM EXPORT BUSINESS TO THE U.S. IT IS SELF-EVIDENT THAT THE

LONG SUSPENSION OF LIQUIDATION ON THE PART OF THE
U.S. HAS CONSTITUTED AN UNJUSTIFIABLE IMPEDIMENT TO
INTERNATIONAL TRADE, BEING INCOMPATIBLE WITH THE
SPIRIT OF THE ANTI-DUMPING CODE.

3. THIS CASE OF THE U.S. LIQUIDATION GIVES RISE TO
OTHER PROBLEMS IN THE LIGHT OF THE ANTI-DUMPING CODE.

(1) IN ITS ATTEMPT OF LIQUIDATION, THE U.S.
ADOPTED A NEW CALCULATION METHOD OF DUMPING MARGIN
WHICH DIFFERS FROM THE METHOD PREVIOUSLY EMPLOYED
IN THE FINAL DECISION TO IMPOSE AN ANTI-DUMPING
DUTY IN 1971.

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AF-10 ARA-10 EA-10 EUR-12 NEA-10 /153 W
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PASS TREASURY

ANTI-DUMPING CODE PROVIDES IN ARTICLE 6(G) THAT
"ALL PARTIES SHALL HAVE A FULL OPPORTUNITY FOR THE
DEFENSE OF THEIR INTERESTS". HOWEVER, NO JAPANESE
EXPORTERS HAVE BEEN GIVEN ANY APPROPRIATE OPPORTUNITY
TO EXPRESS THEIR VIEW ON THE NEW CALCULATION METHOD
WHICH WAS ADOPTED FOR THE RECENT LIQUIDATION. I
WOULD EXPRESS MY DOUBT IF THE LIQUIDATION WAS
CONDUCTED IN COMPLIANCE WITH ARTICLE 6(G) OF THE
CODE.

I WOULD STRESS THAT LIQUIDATION SHOULD BE CONDUCTED WITH THE CALCULATION METHOD OF DUMPING MARGIN EMPLOYED IN THE PRECEDING DETERMINATION OF IMPOSITION OF ANTI-DUMPING DUTIES; OTHERWISE, EXPORTERS WILL BE PUT IN AN INSTABLE POSITION AND AN UNJUSTIFIABLE IMPEDIMENT WILL BE CREATED TO INTERNATIONAL TRADE IN LIMITED OFFICIAL USE

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CONTRADICTION TO THE SPIRIT OF THE CODE. IT IS OUR INTERPRETATION OF THE CODE THAT THE CODE DOES NOT PERMIT ANY CHANGE IN THE CALCULATION METHOD OF DUMPING MARGIN BETWEEN THE FINAL DECISION AND THE SUBSEQUENT LIQUIDATION EXCEPT FOR A BASIC PRICE SYSTEM AS IS PROVIDED FOR IN ARTICLE 8(D).

(2) TO EXAMINE THE NEW CALCULATION METHOD AS SUCH THAT WAS ADOPTED BY THE U.S. FOR THE RECENT LIQUIDATION, THE METHOD INCLUDES SALES PROMOTION EXPENSES SUCH AS ADVERTISEMENT IN THE CALCULATION OF "THE DOMESTIC PRICE", WHEREAS THOSE EXPENSES ARE NOT INCLUDED IN "THE EXPORT PRICE". IT FOLLOWS ACCORDINGLY THAT A COMPARISON BETWEEN THE DOMESTIC PRICE THUS CALCULATED AND THE EXPORT PRICE CAN NOT REPRESENT A JUSTIFIABLE MARGIN OF ANTI-DUMPING DUTIES, SINCE THE TWO PRICES ARE NOT COMPARED AT THE SAME LEVEL OF TRADE. IT IS, THEREFORE, MY VIEW THAT THE NEW CALCULATION METHOD IN QUESTION IS NOT IN COMPLIANCE WITH ARTICLE 2(F) OF THE ANTI-DUMPING CODE. END TEXT.

VANDEN HEUVEL

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Message Attributes

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